

REMARKS/ARGUMENTS

Status of Claims

Claims 1-24, 27 and 28 are pending.

No claims are being amended by this response.

Claim Rejections – 35 U.S.C. 103

In rejecting claims under 35 U.S.C. § 103(a), the Examiner bears the initial burden of establishing a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). *See also In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984). It is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d, 1071, 1073 (Fed. Cir. 1988). In so doing, the examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966), viz., (1) the scope and content of the prior art; (2) the differences between the prior art and the claims at issue; and (3) the level of ordinary skill in the art. Additionally, in making a rejection under 35 U.S.C. § 103(a) on the basis of obviousness, the Examiner must provide some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the appellant. *See Oetiker*, 977 F.2d at 1445. *See also Piasecki*, 745 F.2d at 1472. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See Oetiker*, 977 F.2d at 1445; *Piasecki*, 745 F.2d at 1472.

Claims 1-4, 6, 10-14, 20-22 and 27-28

The Examiner rejects claims 1-4, 6, 10-14, 20-22 and 27-28 under 35 U.S.C. 103(a) as being unpatentable over U.S. 5,761,193 (“Derango”) in view of U.S. 7,319,879 (“Harris”). In response, Applicant respectfully traverses the Examiner’s rejection, as there are clear differences between the claimed invention and the prior art that the Examiner has not appreciated. Also, it is respectfully submitted that there is no valid reason in support of the obviousness rejection. Applicant’s reasoning is detailed below.

Differences between the claimed invention and the prior art

Claim 1 recites a user device that is configured to “obtain from the dispatch network a user-device specific set of at least one provisioned talk group identifier having a respective provisioned talkgroup identifier for each talkgroup provisioned for the user device” and “make information pertaining to the at least one provisioned talkgroup identifier available to a user of the user device, the at least one provisioned talkgroup identifier being maintained by the dispatch network.” Thus, claim 1 defines how the at least one provisioned talkgroup identifier maintained by the dispatch network is provided to the user device. This allows the user device to inform/remind the user of the talkgroups that have been provisioned for the user device.

Derango has nothing to do with informing/reminding the user of the talkgroups that have been provisioned for the user device, as talkgroup identifiers are not even provided to a user device. Rather, Derango teaches in column 3, lines 35-54 that “a site receives an affiliation message from a communication unit and forwards the affiliation message to a [network] controller” and that “the affiliation message indicates that the talkgroup which the communication unit has currently selected (i.e. talkgroup that the unit is monitoring) is now also affiliated with the site.” In other words, Derango teaches how the affiliation message concerning the talkgroup is provided to network controller from the communication unit. There is no teaching that the talkgroup affiliation message concerning the talkgroup is provided to a user device whosoever.

The Examiner concedes that “Derango does not explicitly show [a user device configured to] make information pertaining to the at least one provisioned talkgroup identifier available to a user of the user device, the at least one provisioned talkgroup identifier being maintained by the dispatch network.” Applicant agrees with the Examiner, as talkgroup identifiers are not even provided to the user device in Derango.

The Examiner refers to Harris as disclosure for the aforementioned subject matter. However, Harris also fails to disclose Applicant’s claimed user device configured to “make information pertaining to the at least one provisioned talkgroup identifier available to a user of

the user device, the at least one provisioned talkgroup identifier being maintained by the dispatch network.” Applicant’s reasoning is detailed below.

Harris teaches in column 7, lines 4-14 that “When the creator of a talkgroup creates or edits the talkgroup, the associated MS conveys the talkgroup identifier and the list of associated MS identifiers to MSC 130. ... MSC 130 then forwards the talkgroup identifier and the list of associated MS identifiers to each member of the talkgroup.” Therefore, the network operates as a conduit to distribute the talkgroup identifier. This is contrary to Applicant’s claimed user device configured to “make information pertaining to the at least one provisioned talkgroup identifier available to a user of the user device, the at least one provisioned talkgroup identifier being maintained by the dispatch network.”

In particular, Harris teaches that the talkgroup identifier identifier is maintained by a user device, not by a dispatch network. For instance, Harris teaches in column 6, lines `53-55 that “When the MS is a member of a talkgroup, database 208 [of the MS] further stores, in association with the talkgroup, a talkgroup identifier and an associated list of MS identifiers.” Note that the database 208 that maintains the talkgroup identifier is part of the MS—see Figure 2. Despite disclosing in detail what can be maintained by the network (see for example column 5, lines 47-52), Harris does not teach that the talkgroup identifier can be maintained by the network.

Harris goes on to teach in column 8, lines 16-26 that “By allowing an MS, such as MS 101, to create and manage a talkgroup, communication system 100 provides talkgroup management that is transparent to the underlying network, that is, infrastructure 134, and that imposes minimal overhead on the implementing communication system. By providing for talkgroup creation and management that is transparent to the infrastructure, the talkgroup system may be implemented in a legacy communication system without modification of an infrastructure, such as an already existing CDMA communication system that provides only interconnect services and not dispatch services.” Thus, Harris expressly teaches that there is no need for a dispatch network to maintain information on the newly created group.

In summary, Harris teaches away from Applicant's claimed user device configured to "make information pertaining to the at least one provisioned talkgroup identifier available to a user of the user device, the at least one provisioned talkgroup identifier being maintained by the dispatch network." Moreover, as noted above, Derango has nothing to do with this subject matter because talkgroup identifiers are not even provided to a user device.

For at least these reasons, Applicant submits that there are clear differences between the claimed invention and the prior art that the Examiner has not appreciated.

No reason to support an obviousness rejection

The Examiner contends that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to use, make information pertaining to the at least one provisioned talkgroup identifier available to a user of the user device, the at least one provisioned talkgroup identifier being maintained by the dispatch network, as taught by Harris, in order to provide talkgroup creation and management and in-band floor arbitration that are transparent to the underlying network, the talkgroup creation and management and in-band floor arbitration may be implemented in a legacy system without the need to modify the network and regardless of the type of network employed."

To begin, as noted above, both Derango and Harris fail to teach Applicant's claimed user device configured to "make information pertaining to the at least one provisioned talkgroup identifier available to a user of the user device, the at least one provisioned talkgroup identifier being maintained by the dispatch network." On this basis alone, Applicant submits that it could not have been obvious to apply the teachings of Harris to the teachings of Derango in a manner that would arrive at claim 1.

Furthermore, as noted above, the legacy systems referred to in Harris include already existing CDMA communication systems that provide only interconnect services and not dispatch services. Thus, Harris expressly teaches that there is no need for a dispatch network to maintain information on the newly created group. This is because in Harris a talkgroup identifier is maintained by a user device, not by the network.

It is noted that “The gap between the prior art and the claimed invention may not be ‘so great’ as to render the [claim] non-obvious to one reasonably skilled in the art.” *Dann v. Johnston*, 425 U.S. 219, 230, 189 USPQ 257, 261 (1976). It is respectfully submitted that the gap between Applicant’s claim 1 and the Examiner’s proposed combination of Derango and Harris is so great that claim 1 is rendered non-obvious to one reasonably skilled in the art. In particular, Harris teaches away from Applicant’s claimed user device configured to “make information pertaining to the at least one provisioned talkgroup identifier available to a user of the user device, the at least one provisioned talkgroup identifier being maintained by the dispatch network.” Moreover, Derango has nothing to do with this subject matter because talkgroup identifiers are not even provided to a user device.

For at least these reasons, Applicant submits that there is no valid reason in support of an obviousness rejection. Therefore, Applicant submits that claim 1 cannot be rendered obvious under 35 U.S.C. 103(a).

Applicant submits that claims 2-4, 6, and 10-12 cannot be rendered obvious under 35 U.S.C. 103(a) for similar reasons provided above for claim 1.

Claim 13 recites a dispatch network configured to “maintain for each user device a user-device specific set of at least one provisioned talk group identifier having a respective provisioned talkgroup identifier for each talkgroup provisioned for the user device” and “provide to each user device the user-device specific set of at least one provisioned talkgroup identifier upon an event other than talkgroup opt in.” Thus, claim 13 defines how the at least one provisioned talkgroup identifier maintained by the dispatch network is provided to the user device. This allows the user device to inform/remind the user of the talkgroups that have been provisioned for the user device.

As noted above for claim 1, Derango has nothing to do with this subject matter because talkgroup identifiers are not even provided to a user device. Not surprisingly, the Examiner concedes, that “Derango does not explicitly show [a dispatch network configured to] provide to each user device the user-device specific set of at least one provisioned talkgroup identifier upon an event other than talkgroup opt in.”

As also noted above for claim 1, the network in Harris operates as a conduit to distribute the talkgroup identifier. Therefore, Harris also fails to teach how the at least one provisioned talkgroup identifier maintained by the dispatch network is provided to the user device.

For at least these reasons, Applicant submits that there are clear differences between the claimed invention and the prior art that the Examiner has not appreciated.

Applicant's remarks above in regards to there being no valid reasoning in support of an obviousness rejection for claim 1 similarly apply to claim 13. Therefore, Applicant submits that claim 13 of the present application cannot be rendered obvious under 35 U.S.C. 103(a).

Applicant submits that claim 14 cannot be rendered obvious under 35 U.S.C. 103(a) for similar reasons provided above for claim 13.

Claim 20 recites "the dispatch network receiving the request [from the user device] and responding with a response containing a user-device specific set of at least one provisioned talkgroup identifier having a respective provisioned talkgroup identifier for each talkgroup provisioned for the user device." Therefore, the at least one provisioned talkgroup identifier is provided to the user device upon request.

As noted above for claim 1, Derango has nothing to do with this subject matter because talkgroup identifiers are not even provided to a user device. Not surprisingly, the Examiner concedes, that "Derango does not explicitly show that the user device receiving the response and making the provisioned talkgroup identifiers available to a user of the user device."

As also noted above for claim 1, Harris teaches in column 7, lines 4-14 that "When the creator of a talkgroup creates or edits the talkgroup, the associated MS conveys the talkgroup identifier and the list of associated MS identifiers to MSC 130. ... MSC 130 then forwards the talkgroup identifier and the list of associated MS identifiers to each member of the talkgroup." Therefore, the network operates as a conduit to distribute the talkgroup identifier. In this manner, the network is not acting in response to a request for the talkgroup identifier. Therefore, Harris also fails to teach how at least one provisioned talkgroup identifier is provided to the user device upon request.

For at least these reasons, Applicant submits that there are clear differences between the claimed invention and the prior art that the Examiner has not appreciated.

Applicant's remarks above in regards to there being no valid reasoning in support of an obviousness rejection for claim 1 similarly apply to claim 20. Therefore, Applicant submits that claim 20 of the present application cannot be rendered obvious under 35 U.S.C. 103(a).

Applicant submits that claims 21 and 27-28 cannot be rendered obvious under 35 U.S.C. 103(a) for similar reasons provided above for claim 20.

The Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-4, 6, 10-14, 20-22 and 27-28 under 35 U.S.C. 103(a).

Claims 5, 7-9 and 15-19 and 23-24

The Examiner rejects claims 5, 7-9 and 15-19 and 23-24 under 35 U.S.C. 103(a) as being unpatentable over Derango in view of Harris and further in view of additional cited art. These rejections rely on the rejection of claims 2, 4, 14, 15 and 21. However, seeing as though the rejection of claims 2, 4, 14, 15 and 21 should be withdrawn, the Examiner is respectfully requested to similarly reconsider and withdraw the rejection of claims 5, 7-9 and 15-19 and 23-24.

Favorable consideration is requested. Applicant expressly reserves the right to submit further arguments for any one or more of the rejected claims at a later time.

Respectfully submitted,

RAO, PADAKANDLA KRISHNA

By 
Paul den Boef
Reg. No. 62,415

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PDB:kmb:mcg